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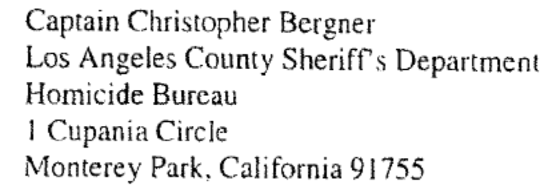
LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
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JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

June 1, 2018

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CAPT. C. BERGNER
NOTED



Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Luis Garcia
J.S.I.D. File #17-0257
L.A.S.D. File #017-06628-2822-013

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 24, 2017, fatal shooting of Luis Garcia by Los Angeles County Sheriff's Department Deputies [redacted] and Miguel Garcia, Jr. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy [redacted] #[redacted]
Deputy Miguel Garcia, Jr., #[redacted]

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MEMORANDUM

TO:	CAPTAIN CHRISTOPHER BERGNER Los Angeles County Sheriff's Department Homicide Bureau 1 Cupania Circle Monterey Park, California 91755
FROM:	JUSTICE SYSTEM INTEGRITY DIVISION Los Angeles County District Attorney's Office
SUBJECT:	Officer Involved Shooting of Luis Garcia J.S.I.D. File #17-0257 L.A.S.D. File #017-06628-2822-013
DATE:	June 1, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 24, 2017, fatal shooting of Luis Garcia by Los Angeles County Sheriff's Department (LASD) Deputies [redacted] and Miguel Garcia Jr. It is our conclusion that Deputies [redacted] and Garcia Jr. acted reasonably and lawfully in self-defense and in defense of others when they used deadly force against Luis Garcia.[1]

The District Attorney's Command Center was notified of this shooting on May 25, 2017, at approximately 12:57 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LASD Lieutenant Joe Mendoza.

The following analysis is based on investigative reports, audio recorded interviews of witnesses, video footage, and photographs submitted to this office by the LASD Homicide Bureau. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On May 24, 2017, at approximately 11:40 p.m., LASD Deputies [redacted] and Garcia Jr. were in full uniform, working as partners in a marked black and white patrol vehicle. [redacted] was the driver and Garcia Jr. was the passenger. [redacted] and Garcia Jr. were traveling westbound on Rosecrans Avenue approaching Santa Fe Avenue in the City of Compton, when they observed a white Cadillac exit the parking lot of the "Jack in the Box" restaurant located at 701 East Rosecrans Avenue.

The Cadillac turned right onto Rosecrans Avenue and immediately proceeded across two lanes of westbound traffic and entered the left turn lane of westbound Rosecrans Avenue at Santa Fe Avenue without signaling. As the Cadillac made the left turn onto southbound Santa Fe Avenue,

[1] As discussed infra, [redacted] believed he discharged his firearm at Luis Garcia; however, the evidence suggests he did not actually shoot. Because he attempted to shoot, we have assessed the lawfulness of his conduct as if he had.

it entered the number two lane, and [redacted] activated the overhead lights on their patrol vehicle and initiated a traffic stop. The Cadillac stopped adjacent to [redacted] North Santa Fe Avenue, and [redacted] stopped the patrol vehicle behind the Cadillac.

[redacted] was driving the Cadillac, [redacted] was seated in the front passenger seat and Luis Garcia was seated in the right rear passenger seat. [redacted] requested [redacted] step out of the Cadillac and place her hands on the hood of the patrol vehicle. Garcia Jr. positioned himself to the rear of the passenger side of the Cadillac, where he noticed Luis Garcia was moving around a lot. Garcia Jr. notified [redacted] of this fact, and together they decided to contact Luis Garcia. When [redacted] opened the rear passenger door of the Cadillac, Luis Garcia armed himself with a handgun and shot [redacted] twice, once in the left arm and once in the chest. [redacted] attempted to return fire at Luis Garcia, but his weapon jammed. Luis Garcia then began shooting at Garcia Jr., who returned fire, fatally wounding Luis Garcia.

Luis Garcia was transported to Saint Francis Medical Center, where he was pronounced dead at 12:02 a.m. by the on-duty emergency room physician, Dr. Maxine Anderson.

[redacted] was also transported to St. Francis Medical Center and examined by Dr. Anderson. Dr. Anderson described [redacted] injuries as a "graze gunshot wound to the left nipple," and a "through and through gunshot wound to the posterior lateral upper arm."

Statement of Deputy [redacted]

[redacted] stated that after he observed the Cadillac commit several vehicle code violations, he activated the overhead lights of his patrol vehicle and initiated a traffic stop. He contacted the driver, [redacted] and asked her to exit the vehicle. [redacted] complied and, as [redacted] walked her toward the rear of the Cadillac, he noticed the back passenger, Luis Garcia, appeared nervous. [redacted] told [redacted] to place her hands on the hood of his patrol vehicle. [redacted] then told his partner, Garcia Jr., he was going to get Luis Garcia out of the vehicle.

[redacted] opened the right rear passenger door and noticed that Luis Garcia was trying to retrieve something from a black backpack or bag on the left side of his lap.[2] [redacted] could not see Luis Garcia's hands. Suddenly, Luis Garcia produced a gray revolver with his right hand, pointed it at [redacted] and fired two to four rounds at [redacted]

[redacted] in fear for his life, fired his weapon at Luis Garcia. [redacted] believed he fired two to four rounds, but then noticed that his gun was not firing. [redacted] felt pain to his chest and left arm, and realized he had been shot. Believing that his gun might be jammed, [redacted] took cover behind the trunk of his patrol vehicle and tried to clear the jam. [redacted] was uncertain if he completed the steps to clear his weapon or if he stopped after he noticed that Luis Garcia was still in the vehicle and was no longer moving.

[redacted] suffered a through and through gunshot wound to his left triceps. [redacted] also suffered an abrasion to his left nipple as a result of a bullet which impacted his Kevlar protective

[2] A black "Gucci" box containing 201.8 grams of marijuana was found on the left rear passenger seat. Except for a black backpack found in the trunk, no other black bag or backpack was found in the Cadillac.

vest. [redacted] broadcast "998," LASD radio code for a deputy involved shooting. Assisting units arrived at the location, observed he was injured and transported him to the hospital.

Statement of Deputy Garcia Jr.

Garcia Jr. stated that when [redacted] activated the overhead lights and "gave a quick siren," the Cadillac's brake lights went on and the driver began to merge to the right, but accelerated before pulling over. These actions caused Garcia Jr. to believe the occupants might be hiding or retrieving something. Garcia Jr. exited their patrol vehicle, walked to the Cadillac and stood near the right rear passenger tire, in the occupants' "blind spot." While standing there, Garcia Jr. noticed Luis Garcia seated in the right rear passenger seat. Garcia Jr. saw that Luis Garcia was moving something on his left side, but could not see what it was.

Garcia Jr. watched as [redacted] escorted the driver, [redacted] to the front of their patrol vehicle. Garcia Jr. began to get nervous because Luis Garcia was moving around so much that Garcia Jr. thought that Luis Garcia might be reaching for something. Garcia Jr. told [redacted] that they needed to get Luis Garcia out of the car. [redacted] told [redacted] to put her hands on the hood of the patrol vehicle, and walked to the passenger side of the Cadillac where Luis Garcia was seated. Garcia Jr. stepped back to give [redacted] room to open the door.

As soon as [redacted] opened the right rear passenger door, Garcia Jr. heard [redacted] say "Don't reach!" or "Don't grab it!" Garcia Jr. could tell [redacted] was scared based on the tone of his voice. Garcia Jr. saw flashes of light from the rear passenger seat of the Cadillac and heard three gunshots. As soon as he saw the muzzle flash, Garcia Jr. attempted to take cover. Garcia Jr. saw [redacted] holding his firearm, shooting at Luis Garcia, as Luis Garcia remained seated in the vehicle. Although Garcia Jr. knew there was an exchange of gunfire, he was unable to engage because [redacted] was in his line of fire. Garcia Jr. shuffled to his right to avoid [redacted] and noticed [redacted] began to back away toward the patrol vehicle.

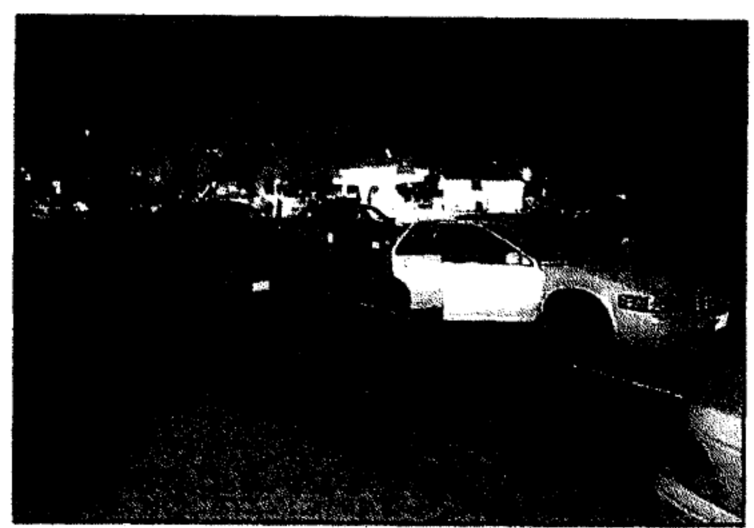
Garcia Jr. saw Luis Garcia begin to emerge from the Cadillac and plant his right foot on the street. Garcia Jr. saw Luis Garcia was holding a small silver revolver in both hands. Garcia Jr. tried to retreat west, away from Luis Garcia, but lost his footing on the lip of the driveway and fell to the ground. Garcia Jr. was able to maintain a onehanded grip on his firearm and got a "picture sight" on Luis Garcia. Luis Garcia turned his focus from [redacted] toward Garcia Jr. Luis Garcia appeared angry, and his mouth and jaw were clenched, his eyebrows were folded inward, and he was shouting something.

Luis Garcia pointed his gun directly at Garcia Jr. Garcia Jr. saw muzzle flashes and heard gunshots. Fearing for his life, Garcia Jr., who was laying on the sidewalk, fired one or two rounds at Luis Garcia. Garcia Jr. noticed the front seat passenger, [redacted], lean forward in an attempt to distance herself from the gunfire. Garcia Jr., believing that Luis Garcia was still an imminent threat, fired another seven or eight shots, three to four rounds as he was getting up from the ground and three to four rounds while standing.

After he stopped shooting, Garcia Jr. saw Luis Garcia lay backwards into the vehicle with his head toward the middle seat area of the back seat. Luis Garcia was still moving, and Garcia Jr. saw [redacted] look over her left shoulder toward the back seat and shout at Luis Garcia "You

are fucking stupid!" Garcia Jr. saw Luis Garcia release his grip on the gun and the gun rolled down his legs, off his shoes and into the street.

Garcia Jr. asked [redacted] if he was okay, and [redacted] replied that he had been hit. Garcia Jr. requested paramedics for both [redacted] and Luis Garcia. Garcia Jr.'s left elbow was sore and he noticed a rip near the left elbow area of his uniform.



Patrol vehicle stopped behind the white Cadillac.

Statement of [redacted]

[redacted] stated she is the owner of the Cadillac and had only recently met the people in her car. She met "Maniack," Luis Garcia, on Tuesday, May 23, 2017, at her [redacted] "[redacted]" house. [redacted] was not sure which gang Luis Garcia was from, but believed it was a "number."[3]

On Wednesday, May 24, 2017, [redacted] smoked methamphetamine with Luis Garcia throughout the day. [redacted] also noticed Luis Garcia was smoking something black out of some foil that had a "really bad" odor. [redacted] did not see Luis Garcia with any weapons.

[redacted] did not know [redacted] and only met her about two hours before the incident. [redacted] stated a "pretty [redacted] girl" also showed up to "[redacted]" and told Luis Garcia she was "ready." Based on the interaction between Luis Garcia and the [redacted] girl, [redacted] thought Luis Garcia might be "pimping her out" because after she stated she was "ready," Luis Garcia asked [redacted] if she could do him a favor and drop off the [redacted] girl.

[redacted] agreed and they all got into her Cadillac. [redacted] was the driver, the [redacted] girl was in the front passenger seat, Luis Garcia was in the right rear passenger seat and [redacted] was in the left rear passenger seat. [redacted] dropped off the [redacted] girl at a carwash on Long Beach Boulevard near Rosecrans Avenue, at which time [redacted] moved to the front passenger seat.

[3] Luis Garcia had "CV 70S" tattooed on his left thigh and "70" tattooed on his upper right arm. Additionally, a black backpack containing men's clothing, a tattoo machine, bond paperwork in the name of Luis Garcia and miscellaneous paperwork with "CV-70" gang graffiti on it was located in the trunk of the Cadillac

Before returning to "[redacted]" house, [redacted] decided to go to the Jack in the Box restaurant located on the corner of Rosecrans Avenue and Santa Fe Avenue. After receiving their order, [redacted] began to exit the parking lot. As she was exiting, a black and white patrol vehicle entered the driveway and pulled alongside her vehicle. [redacted] made a right turn onto westbound Rosecrans Avenue and immediately drove into the left turn lane at Santa Fe Avenue. While waiting for the red light to turn green, she noticed the patrol vehicle was behind her. After the patrol vehicle pulled behind her vehicle, Luis Garcia said, "Oh shit. I have a 'burner' on me."[4] This was the first time [redacted] became aware that Luis Garcia had a gun.

As [redacted] began to make the left turn, she noticed the overhead lights on the patrol vehicle were activated. [redacted] started to brake, but Luis Garcia told her, "No! Go, go, go! You got to go! You got to go! I'm fucked! I'm fucked!" [redacted] thought about her [redacted] and told Luis Garcia she could not get in a pursuit and pulled over.

[redacted] stated the driver deputy, [redacted] approached her door and asked for her license. [redacted] was nervous and began looking for it in the center console when [redacted] told her to get out of the car. [redacted] walked back to the patrol vehicle and [redacted] instructed her to put her hands on the hood of the patrol vehicle. [redacted] noticed that the deputies were saying something to each other and then to Luis Garcia, but [redacted] could not remember what they were saying. [redacted] saw the right rear passenger door open and heard gunshots. [redacted] felt "the heat of the bullet" near her and ran behind the front passenger door of the patrol vehicle to take cover. [redacted] believed Luis Garcia and the passenger deputy, Garcia Jr., were exchanging gunfire because she turned and saw [redacted] behind his patrol vehicle talking on the radio.

[redacted], fearing she was going to be caught in the crossfire, moved to the rear of a minivan that was parked along the curb about four or five feet away. [redacted] curled up into a fetal position to protect herself. [redacted] noticed both deputies were now at the rear of the patrol vehicle and Garcia Jr. ordered her to show her hands. [redacted] complied.

[redacted] heard the deputies issue a command to Luis Garcia, but could not recall if it was to "drop your gun" or "show your hand" or "give in." [redacted] heard Garcia Jr. ask [redacted] if he was okay. [redacted] stated he was okay, he only got hit in his vest.

Statement of [redacted]

[redacted] stated that she is a "[redacted]" gang member with the moniker of "[redacted]"[5] [redacted] had known "Maniack," Luis Garcia, for about two months.[6] However, she did not know [redacted], and only met her about an hour before the incident.

[redacted] spent the previous night in the San Gabriel Valley and was dropped off at a house in Compton at approximately 9:00 p.m. [redacted] "snorted some lines" of "crystal" and then asked Luis Garcia for a ride to her [redacted] house.[7] Luis Garcia got into the backseat of a

[4] "Burner" is a slang term for a handgun.
[5] Luis Garcia had the name "Grumpy" tattooed on his left wrist.
[6] [redacted] has "[redacted]" tattooed on the back of her [redacted]
[7] "Crystal" is a slang term for methamphetamine.

Cadillac, [redacted] was seated in the driver's seat, and a "[redacted] girl" was seated in the front passenger seat. [redacted] got into the left rear passenger seat and they left the location.

They drove to Long Beach Boulevard near Rosecrans Avenue and dropped the "[redacted] girl" off at a carwash on Long Beach Boulevard. [redacted] moved to the front passenger seat and Luis Garcia remained in the right rear passenger seat. [redacted] stated she was hungry and drove them to the Jack in the Box restaurant on the corner of Rosecrans Avenue and Santa Fe Avenue. They received their order and began exiting the parking lot when [redacted] noticed a black and white patrol vehicle entering the parking lot. The patrol vehicle pulled up next to the Cadillac.

They exited the parking lot onto Rosecrans Avenue and immediately pulled into the left hand turn lane to go south on Santa Fe Avenue. As they made the left turn, [redacted] saw the patrol vehicle's emergency lights and heard the siren. [redacted] appeared nervous and asked them what she should do. Luis Garcia told her to drop him off and he was going to run. [redacted] did not know why Luis Garcia said he was going to run, but believed it was because he had warrants out for his arrest.[8]

[redacted] pulled over and a deputy, [redacted] approached her window. [redacted] started digging for her license near the dashboard radio and [redacted] told her to get out of the car. [redacted] could see the passenger deputy, Garcia Jr., standing on the sidewalk behind the right rear passenger door. Garcia Jr. did not say anything, but [redacted] could see Garcia Jr.'s flashlight shining into the Cadillac.

[redacted] heard the rear passenger door open, but was not sure who opened it. As the door opened, [redacted] heard gunshots and "ducked down." [redacted] stated she "kind of blacked out" and when she turned around she saw Luis Garcia lying on his back with his head toward the middle of the back seat. [redacted] told Luis Garcia to "try to stay alive." [redacted] did not see where the deputies were at the time of the shooting.

[redacted] admitted when they were being pulled over Luis Garcia said, "I'm not trying to go to jail," and said something about a "strap."[9] [redacted] stated that when Luis Garcia made that statement, that was the first time she realized he had a gun.

Physical Evidence[10]

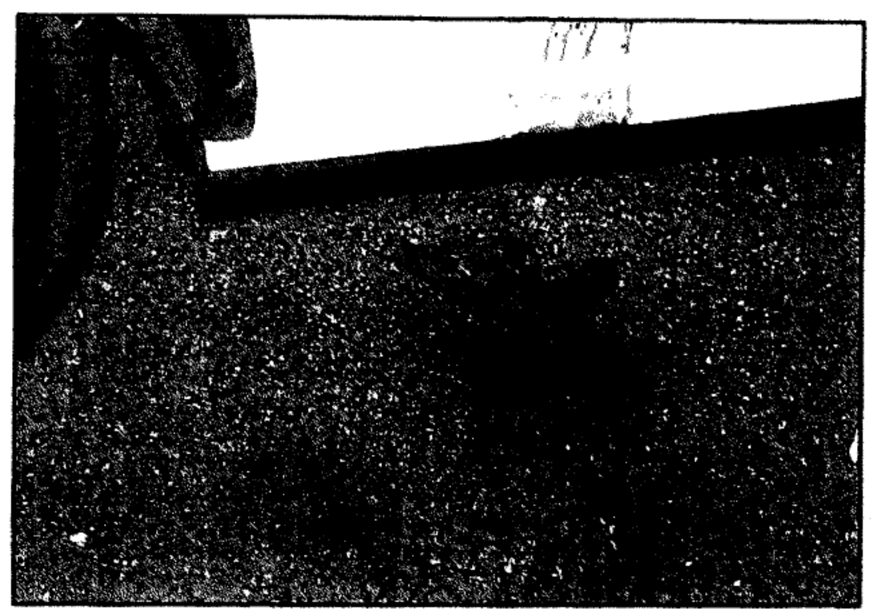
An Iver Johnson five shot .38 caliber revolver, containing five fired cartridge cases in the cylinder, was recovered at the scene. The revolver was located partially underneath the right rear passenger door of the Cadillac and appeared to be stained with blood.

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[8] Although [redacted] told investigators she had only known Luis Garcia for two months, she had recently [redacted] At the time of the shooting, Luis Garcia had two outstanding warrants issued for his arrest. A [redacted] was issued on April 15, 2017, in the [redacted] for a [redacted] A [redacted] was issued on April 11, 2017, in the [redacted] for a [redacted]

[9] "Strap" is also a slang term for a firearm, usually a handgun.

[10] Although multiple surveillance videos captured portions of the incident, none of them captured the shooting.



.38 caliber revolver recovered at the scene.

The revolver was examined and determined to be functional. Additionally, the barrel was discovered to have been shortened. The bloodstained area of the revolver was tested and the DNA profile matched Luis Garcia's DNA profile.

The five expended shell casings from the revolver were also swabbed for DNA. The DNA profile obtained from the shell casings matched Luis Garcia's DNA profile.

Particles of gunshot residue were recovered from Luis Garcia's hands. The presence of gunshot residue particles on Luis Garcia's hands is consistent with him having discharged a firearm.

[redacted] uniform and tactical vest were processed by technicians from the LASD crime lab. Three bullet holes were observed: one bullet hole in the left chest pocket of the uniform shirt; one bullet hole in the back of the left sleeve of the uniform shirt; and, one bullet hole in the left side of the front carrier of the body armor vest. Additionally, a fired bullet was recovered from the front armor panel of the vest.

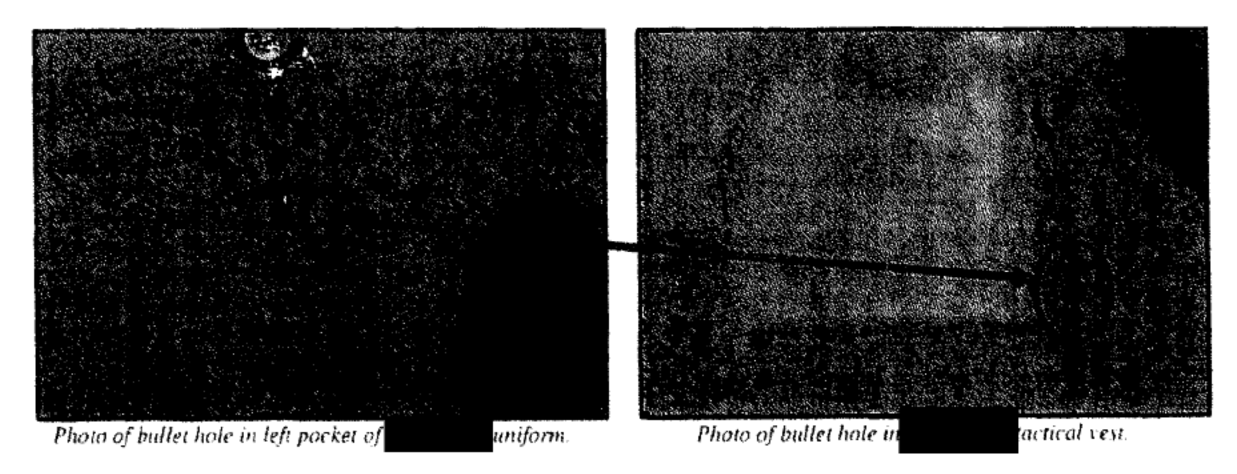


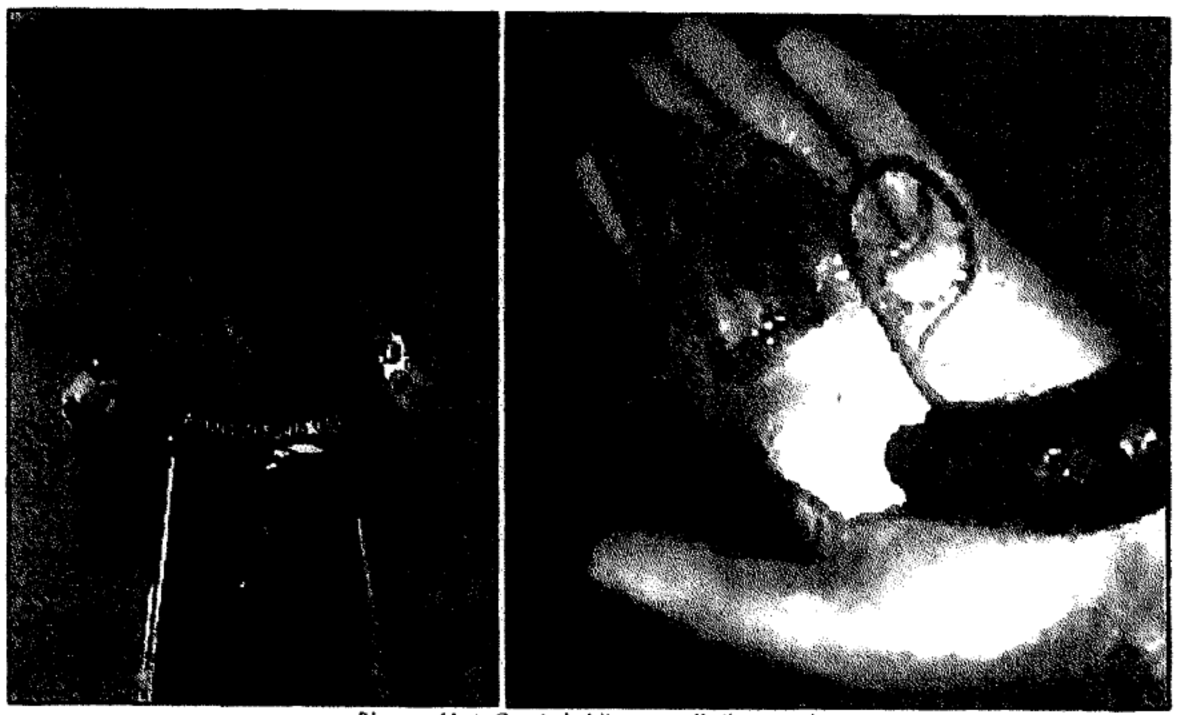
Photo of bullet hole in left pocket of [redacted] uniform. Photo of bullet hole in [redacted] tactical vest.

The bullet recovered from [redacted] vest was examined and determined to have been fired from the Iver Johnson .38 caliber revolver.

Investigators observed a bullet impact to a picket of the wrought iron fence bordering the front yard of the residence located at [redacted] North Santa Fe Avenue. Investigators also observed two bullet impacts to roof tiles on the east facing slope of the roof. The bullets traveled upward in a northwest direction and ricocheted off of the roof tiles.

The five fired cartridge cases found in Luis Garcia's .38 caliber revolver, the presence of gunshot residue particles on his hands, the fired bullet recovered from [redacted] Kevlar vest, the through and through gunshot wound to [redacted] left arm, the bullet strike on the wrought iron fence and the two bullet strikes to the roof of [redacted] North Santa Fe Avenue are consistent with Luis Garcia firing his weapon five times at [redacted] and Garcia Jr.

A search warrant was obtained for Luis Garcia's cell phone. Messages sent from the phone by someone identifying himself as "Maniack" to someone identified as "[redacted] bragged about being a "bloodthirsty" killer and also discussed the buying and selling of drugs. Many photos of weapons were also recovered from the phone, including a photo depicting Luis Garcia holding a small silver revolver in his left hand and a rifle in his right hand. Three other photos appear to show that same small silver revolver. The silver revolver appears to be the same weapon used by Luis Garcia to shoot [redacted] and attempt to shoot Garcia Jr.

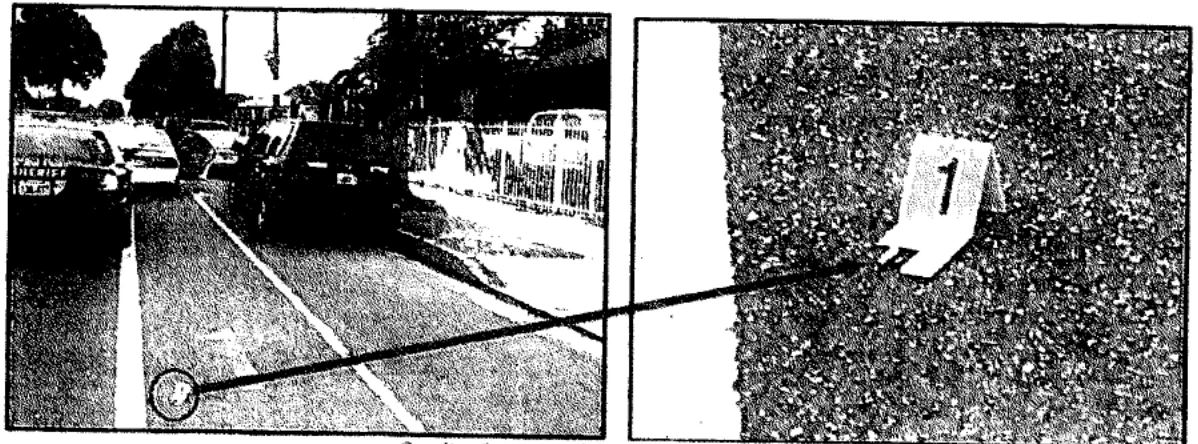


Photos of Luis Garcia holding a small silver revolver.

[redacted] was armed with his department issued Beretta, 92FS, 9mm semiautomatic handgun. At the conclusion of the incident, [redacted] had one round in the chamber and fourteen rounds in the magazine. [redacted] routinely carries his weapon with fifteen rounds in the magazine and one in the chamber for a total of sixteen rounds.

Garcia Jr. was armed with his department issued Smith & Wesson, M&P, 9mm semiautomatic handgun. After the incident, Garcia Jr.'s firearm was loaded with one round in the chamber and five rounds in the magazine. Garcia Jr. routinely carries his weapon with seventeen rounds in the magazine and one in the chamber.

Investigators recovered twelve 9mm expended shell casings and one unfired FC 9mm Luger bullet from the scene. The live 9mm round was found to the rear of the patrol vehicle. Accordingly, it appears that Garcia Jr. fired twelve rounds at Luis Garcia, and [redacted] weapon jammed before he was able to fire a shot.



One live 9mm round recovered at the scene.

On May 29, 2017, Los Angeles County Deputy Medical Examiner David Whiteman, M.D. performed an autopsy on Luis Garcia's remains. Dr. Whiteman noted five gunshot wounds, including gunshot wounds to the right and left thighs, left lower leg, right wrist and a fatal gunshot wound to the head. Dr. Whiteman ascribed the cause of death as "multiple gunshot wounds." Toxicology tests were performed on Luis Garcia's blood and urine. The results of the tests revealed the presence of methamphetamine .30 ug/ml in the femoral blood, amphetamine .12 ug/ml and methamphetamine 1.9 ug/ml in the heart blood, and morphine .95 ug/ml in the urine.[11]

LEGAL ANALYSIS

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and (3) he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505.

[11] A clear plastic baggie containing .1162 grams "of solid substance containing methamphetamine" was recovered west of the right rear passenger side door of the Cadillac. A second clear plastic baggie containing .1936 grams "of solid substance containing methamphetamine" was recovered from Luis Garcia's property taken at the hospital. A plastic bag containing 7.0798 grams of "solid substance containing heroin" was recovered from the front passenger seat of the Cadillac.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

If police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat is ended. *Plumhoff v. Rickard* (2014) 134 S.Ct. 2012, 2022.

CONCLUSION

The evidence examined in this investigation shows that Luis Garcia, under the influence of methamphetamine and opioids, with warrants out for his arrest and in possession of 201.8 grams of marijuana, .3098 grams of methamphetamine and a fully loaded .38 caliber revolver, said he was "fucked" and was not going "to go to jail" when deputies initiated a traffic stop on a car in which he was riding.

As deputies approached the vehicle, Luis Garcia retrieved a gun. [redacted] opened the door and ordered Luis Garcia to "Don't reach!" or "Don't grab it!" Luis Garcia ignored the order and shot [redacted] in the arm and the chest. Were it not for his Kevlar vest, the bullet would have struck [redacted] in the left chest area above his heart, and would likely have killed him.

As Luis Garcia was shooting at him, [redacted] attempted to shoot back, but was forced to retreat and take cover behind his patrol vehicle when he discovered that his weapon was not firing. After shooting [redacted] Luis Garcia began to exit the Cadillac and started shooting at Garcia Jr. In response, Garcia Jr. returned fire and fatally wounded Luis Garcia.

When Luis Garcia armed himself with a handgun and began shooting at [redacted] and Garcia Jr., he presented an immediate deadly threat to the deputies and those around them. Therefore, the deputies were lawfully allowed to use deadly force in self-defense and defense of others.

Accordingly, we conclude that Deputies [redacted] and Miguel Garcia Jr. used reasonable deadly force when they fatally wounded Luis Garcia after he shot Deputy [redacted] We are closing our file and will take no further action in this matter.